cotter

Via Email and U.S. Mail

February 17, 2012

Mr. Steve Tarlton
Manager
Radiation Management Unit
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Subject: New Evaporation Pond and Water Management Alternatives

Dear Mr. Tarlton:

Cotter Corporation (N.S.L.) ("Cotter") hereby submits conceptual alternatives for a site-wide water management strategy and for a new evaporation pond at the Cañon City Milling Facility ("CCMF"). Water management at CCMF will require a new evaporation pond to enable continued groundwater remediation while at the same time evaporating water which currently relies on evaporation from the Primary Impoundment ("PI").

There are several potentially viable options for water management at the CCMF. One option for surface water management involves diversion of Sand Creek at the gap above the CCMF and to the west of the Soil Conservation Service Dam ("Dam"). This proposed diversion will likely require modification of Cotter's adjudicated water rights by the water court and require engineering to determine the extent of cut and fill, channel location and size.

Another possible water management strategy – if surface runoff from storm events is uncontaminated – would be to directly discharge surface water back into Sand Creek under the Colorado Discharge Permit System. This option might also require treatment prior to discharge, which will require further study to quantify levels of contamination in the surface water. Please note that this option may be significantly more expensive when compared with other water management strategies that focus primarily on evaporation rather than treatment.

There are additional water management strategies that may be considered. Each of these strategies, however, will require substantial additional study and analysis.

Whichever water management strategy is selected, a new evaporation pond must be constructed. Cotter has conceptually proposed locating the new evaporation pond atop of the Secondary Impoundment ("SI"). As discussed below, Cotter believes this is the only viable location for the pond. In any event, if it is finally determined that it is necessary to locate the

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evaporation pond elsewhere, additional study and analysis will be necessary, requiring an extension of several milestones in the Remedial Action Plan ("RAP") Project Schedule.

There are two other locations where such a pond could be theoretically located, but each poses substantial hurdles to timely construction. For instance, an evaporation pond could be located upstream of the Dam. In that event, though, all soils under the proposed location would have to be remediated, which will be very time consuming. Additionally, it is likely that sensitive wetlands will have to be excavated, requiring approvals by the Corps of Engineers which will also impact the construction schedule. Finally, space upstream of the Dam is very limited. A 40-acre pond would fill the area from the Dam almost to the old restricted fence line, and could require that the pond be split to maintain the Sand Creek Channel, which the Corps of Engineers may not allow.

Locating the pond downstream of the Dam poses even more difficult hurdles. Cotter does not own 40 acres downstream of the Dam upon which to construct a pond. Indeed, Cotter would likely have to purchase at least 35 additional acres from other property owners, which may prove to be problematic. Additionally, a pond in this location would make it impossible for Cotter to implement the agreed-upon groundwater remediation for the 006 area, or indeed any meaningful groundwater remedy for this area.

Further, locating the pond in any location other than the SI will likely require a full Resource Conservation and Recovery Act ("RCRA") liner, whereas construction inside the footprint of the SI would take advantage of the existing liner system. Constructing a new pond with a RCRA liner will cause additional substantial delay. This delay will not occur if the pond is built on the SI and employs the existing liner system, which is effective and appears to be working well.

Finally, constructing the pond outside of the SI will require the transportation of contaminated materials to the PI or SI. This transportation risks spreading contaminated material to previously clean areas, complicating remediation of the site.

In summary, Cotter reaffirms its proposed evaporation pond conceptual design submitted on November 14, 2011. There appear to be no viable alternative locations at the CCMF. Moreover, further study will be required of potential new locations to see if construction is even feasible, along with public comment regarding these proposed locations. While Cotter is prepared to undertake these additional evaluations, this course of action will almost certainly require lengthy extensions to the evaporation pond milestones in the RAP Surety Agreement and unnecessarily delay construction of the evaporation pond and remediation of the CCMF. For these reasons, Cotter proposes that CDPHE approve the conceptual pond design as submitted.

If you have any questions, please contact me at 719-275-7413 (ext. 202).

Sincerely yours,

John S. Hamrick
Vice President, Mill Operations